

Senate Judiciary Committee Amendment No. 2 (by Fowler)

Amendment No. 2 to SB0983

**Person
Signature of Sponsor**

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 983*

House Bill No. 817

by deleting the amendatory language of Section 2 and by substituting instead the following:

(a)

(1) **IF** a health care provider makes a report of harm, as required by the provisions of § 37-1-403; **AND**

IF the report arises from an examination of the child performed by the health care provider in the course of rendering professional care or treatment of the child; **THEN**

The health care provider shall be not liable in any civil or criminal action that is based solely upon:

(A) The health care provider's decision to report what he or she believed to be harm;

(B) The health care provider's belief that reporting such harm was required by law; or

(C) The fact that a report of harm was made.

(2) As used in this subsection, "health care provider" means any physician, osteopathic physician, medical examiner, chiropractor, nurse, hospital personnel, mental health professional or other health care professional;

(3) Nothing in this subsection shall be construed to confer any immunity upon a health care provider for a criminal or civil action arising out of the treatment of the child about whom the report of harm was made.

(4)

(A) **IF** absolute immunity is not conferred upon a person pursuant subdivision (1); **AND**

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IF, acting in good faith, the person makes a report of harm, as required by the provisions of § 37-1-403; **THEN**

The person shall not be liable in any civil or criminal action that is based solely upon:

- (i) The person's decision to report what the person believed to be harm;
- (ii) The person's belief that reporting such harm was required by law; or
- (iii) The fact that a report of harm was made.

(B) Because of the overriding public policy to encourage all persons to report the neglect of or harm or abuse to children, any person upon whom good faith immunity is conferred pursuant to this subdivision shall be presumed to have acted in good faith in making a report of harm.

(5) No immunity conferred pursuant to this subsection shall attach if the person reporting the harm perpetrated or inflicted the abuse or caused the neglect.

(6) A person furnishing a report, information or records as required or authorized under the provisions of this part shall have the same immunity and the same scope of immunity with respect to testimony such person may be required to give or may give in any judicial or administrative proceeding or in any communications with the department or any law enforcement official as is otherwise conferred by the provisions of this subsection upon such person for making the report of harm.

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(7) If the person furnishing a report, information or records during the normal course of such person's duties as required or authorized under the provisions of this part is different than the person originally reporting the harm, then the person furnishing such report, information or records shall have the same immunity and the same scope of immunity with respect to testimony such person may be required to give or may give in any judicial or administrative proceeding or in any communications with the department or any law enforcement official as is otherwise conferred by the provisions of this subsection upon the person who made the original report of harm.